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PURSUANT TO ORDER FILED NOVEMBER 19, 2003**

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**FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII**

OCT 23 2006  
at    o'clock and    min.    M  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA, )  
ex rel. MARIA VALLADARES )  
KADZIELAWA, )  
Relator/Plaintiff, )  
vs. )  
KAISER FOUNDATION HOSPITALS )  
and KAISER FOUNDATION HEALTH )  
PLAN, INC., )  
Defendants. )

CIVIL NO. 03-00631 DAE LEK  
UNITED STATES' NOTICE OF  
ELECTION TO INTERVENE IN PART  
AND TO DECLINE TO INTERVENE IN  
PART

**UNSEAL BY ORDER OF THE COURT**

DATE: OCT 25 2006

**SEALED**  
BY ORDER OF THE COURT

UNITED STATES' NOTICE OF ELECTION TO  
INTERVENE IN PART AND TO DECLINE TO INTERVENE IN PART

Pursuant to the False Claims Act, 31 U.S.C.

§ 3730(b)(2) and (4), the United States notifies the Court of its decision to intervene in part of this case and to decline to intervene in part of this case. The United States intervenes in that part of the case which alleges that the defendants improperly submitted fee-for-service claims to the United States for excessive units of one-on-one outpatient physical therapy services and for outpatient physical therapy services rendered by unlicensed personnel. The United States declines to intervene in that part of this case which alleges that the defendants improperly submitted outpatient physical therapy claims to the United States in the context of managed care plan contracts between the defendants and the United States.

The United States also wishes to inform the Court that the parties to this case have reached a settlement among themselves which should resolve all matters without the need for further litigation. A final written agreement memorializing the settlement is now being circulated for signature. However, because a total of twenty-two (22) individuals need to sign the agreement, and because some of the signatories may not be available to sign the agreement for a week or more, it will take additional time for the agreement to be fully executed. For this reason, the United States requests that it be given 45 days from

the date of its intervention in which to serve its complaint in this case, and that the relator not serve her complaint until the United States has filed its complaint.

Although the United States declines to intervene in a portion of the action, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the declined portion of the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Id.

Therefore, the United States requests that, should either the relator or the defendants propose that the part of the action in which the United States has not intervened be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action, even as to the non-intervened part of this action, be served upon the United States; the United States also requests that all orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts and to intervene in the portion of this action in which it is declining to intervene today, for good cause, at a

later date.


The United States requests that the relator's Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

DATED: October 23, 2006, at Honolulu, Hawaii.

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